



Expiration Date: Until Withdrawn

DEPARTMENT OF MANAGED HEALTH CARE
980 9th Street, Suite 500
Sacramento, CA 95814

June 3, 2003

DEPARTMENT ADVICE NO. 03-03

TOPIC: Unilateral Amendments to Contracts

Subject Matter:

Effective January 1, 2003, AB 2907 (Stats. 2002, ch. 925) added Section 1375.7 to the Health and Safety Code. Known as the "Health Care Providers' Bill of Rights," AB 2907 prohibits certain types of provisions and practices in contracts between health care service plans (plans) and health care providers. The provisions of AB 2907 became effective January 1, 2003.

Action:

All plans, including specialized plans, are expected to comply with the requirements of Section 1375.7 for all contracts issued, amended or renewed on or after January 1, 2003 between a plan and a health care provider.

Paragraphs (A) and (B) of subdivision (b)(1) require the plan to provide 45 business days notice prior to changing any material term of the contract or prior to materially amending a manual, policy, or procedure document referenced in the contract. Compliance with these notice requirements may be accomplished through written notice via United States mail or via electronic means.

Paragraph (A) provides that in order for the plan to change a material term of the contract, the change must first be negotiated and agreed to by the provider. As this provision requires that the provision be actively negotiated and agreed to by the provider, silence or inaction by the provider does not constitute acceptance of the proposed contract amendment.

However, under paragraph (B), which applies only to preferred provider arrangements licensed by the Department, silence or inaction on the part of the provider will constitute acceptance to the plan's proposed material amendment to the contract if:

- (1) The plan provides 45 days notice to the provider of the proposed material change;

- (2) The provider has the right to terminate the contract prior to implementation of the proposed change if they do not agree to the proposed change; and
- (3) The existing contract permits the plan to make such unilateral changes to the contract.

Further Information:

Authority: Health and Safety Code section 1375.7.

For further information, please contact Sherrie Lowenstein, Staff Counsel III, Office of Legal Services, at (916) 322-5874.